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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/558,895	11/30/2005	Johannes Bergmann	2003P07420WOUS	4666
22116 7590 06/22/2010 SIEMENS CORPORATION INTELLECTUAL PROPERTY DEPARTMENT 170 WOOD AVENUE SOUTH ISELIN, NJ 08830			EXAMINER WYLLIE, CHRISTOPHER T	
			ART UNIT 2465	PAPER NUMBER
			MAIL DATE 06/22/2010	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/558,895

**Applicant(s)**

BERGMANN ET AL.

**Examiner**

CHRISTOPHER T. WYLLIE

**Art Unit**

2465

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 April 2010.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 4 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 4 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 30 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SI/22)  
4) ☐ Interview Summary (PTO-413)  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_  
Paper No(s)/Mail Date \_\_\_\_\_

**DETAILED OFFICE ACTION**

1. This action is responsive to the communication received April 13<sup>th</sup>, 2010. Claim 4 has been amended. Claim 4 has been entered and is presented for examination.
2. Application 10/558,895 claims priority to German Application 103 24 603.7 (05/30/2004) and is a 371 of PCT/EP04/50948 (05/24/2004).
3. Applicant's arguments, filed April 13<sup>th</sup>, 2010, have been fully considered, but deemed moot in view of the new grounds of rejection.

***Continued Examination Under 37 CFR 1.114***

4. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 23<sup>rd</sup>, 2010 has been entered.

***Foreign Priority***

5. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed.

***Declaration***

6. The declaration filed on April 13<sup>th</sup>, 2010 under 37 CFR 1.131 is sufficient to overcome the Xu et al. (Implementation Techniques of IntServ/DiffServ Integrated Network-IEEE, Vol. 1 04/09/2003) reference.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Putzolu et al. (US 7,203,740) in view of Hackney (US 7,359,984)

Regarding claim 4, Putzolu et al. discloses a method for relaying packets to an external control component assigned to a network node in a communication network **(column 6, lines 11-26 [the forwarding element sends packets to the external control component (see Figure 3, Control Element 230 and Forwarding Element 210 [the two elements are separate entities])])**, the communication network having a plurality of network nodes and switching packets **(column 5, lines 16-19 and column 6, lines 13-16 [the control element is responsible for one or more forwarding elements; the forwarding element can be a switch])**, the method comprising: receiving an in-band signaling packet at an external interface of the network node **(column 6, lines 11-26 [the forwarding element receives the signaling packet and forwards it to the control element; the control element is responsible for control functions such as signaling protocols])**; connecting the external interface to the external control component **(see Figure 3, Control Element 230, Forwarding Element 210, and Wire Format 220 [the two elements are connected via the wire format])**; identifying the packet as an RSVP (Resource Reservation Protocol) type of packet **(column 4, lines 16-20 [the forwarding element is programmed to deliver all control traffic (IGMP) queries, RSVP packets and routing updates to the control element [these packets usual have indication within the header that describe the type of packet]])**. Putzolu et al. is silent regarding modifying a DSCP (Differentiated Services Code Point) field in the header of the packet as a function of the receiving external interface, wherein the DSCP field contains the value uniquely assigned to the receiving external interface; and routing the modified packet to the external control

component connected to the external interface and thus relaying Internet Protocol (IP) packets to the external control component assigned to the network node. Hackney discloses such features (**column 2, lines 61-64 and column 3, lines 45-55, and column 4, lines 61-67 [Hackney discloses that the packet can be an IP packet; the DCHP field of the packet is modified to be used for a non-intended use such as identifying a destination address that the packet will be routed to; the destination address in this case can be used to identify the address of the control element of Putzolu et al.; also, the function of the router is to change the DSCP field of the packet to a destination address]]**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the method of Hackney into the system of Putzolu et al. The method of Hackney can be implemented by enabling the forwarding element to modify the DSCP field of the IP packet. The motivation for this is to indicate that the packet will be forwarded to the control element for further processing.

#### ***Response to Arguments***

Applicant argues that the proposed combination of the Putzolu and Hackney references do not meet the requirements of M.P.E.P. 2143.01 VI, requiring that the proposed modification cannot change the principle of operation of a reference. However, the examiner respectfully disagrees. The Putzolu references discloses forwarding an RSVP message to the control element automatically (**column 4, lines 16-20 [the forwarding element is programmed to deliver all control traffic (IGMP queries, RSVP packets and routing updates to the control element [these packets**

**usual have indication within the header that describe the type of packet]]], but does not disclose how this forwarding takes place. Hackney discloses modifying the DSCP field to identify a destination (column 2, lines 61-64 and column 3, lines 45-55, and column 4, lines 61-67 [Hackney discloses that the DCHP field of the packet is modified to be used for a non-intended use such as identifying a destination address that the packet will be routed to; the destination address in this case can be used to identify the address of the control element of Putzolu et al.; also, the function of the router is to change the DSCP field of the packet to a destination address]).**

One of ordinary skill in the art would recognize, through the teachings of the references in combination, that changing the DSCP field to include the address of the control element would be a sufficient means to forward the RSVP message to the control element.

Furthermore, Putzolu does not make any mention of the control element or forwarding element using the DSCP field to perform any of their functions. Therefore, the principle operation of Putzolu's invention is still intact.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER T. WYLLIE whose telephone number is (571) 270-3937. The examiner can normally be reached on Monday through Friday 8:30am to 6:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher T. Wyllie/  
Examiner, Art Unit 2465

/Jayanti K. Patel/  
Supervisory Patent Examiner, Art Unit 2465